

REMARKS

Claims 1-38 are currently pending with no claim being allowed. Claims 1, 9, 13, 21, 25, 33, 37, and 38 are independent claims.

Claims 1-38 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Claims 1-8, 13-20, 25-32, and 37 have been amended to improve readability, to correct antecedent basis, and to bring them into better alignment with FIG. 13, among others. Claims 9-12, 21-24, 33-36, and 38 have been amended to improve readability, to correct antecedent basis, and to bring them into better alignment with FIG. 12, among others.

The 35 U.S.C. § 112 Rejection

Claims 1-32 and 35-38 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This rejection is respectfully traversed.

Generally, the Office Action recites three instances having multiple occurrences where the antecedent basis of a claim is in error. However with this paper, the claims have been amended to correct or eliminate such errors rendering the rejection moot.

The 35 U.S.C. § 102 Rejection

According to M.P.E.P. § 2131, "[a] claim is anticipated [under 35 U.S.C. § 102(a), (b), and (e)] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." It goes on to state that "[t]he elements must be arranged as required by the claim..."

Claims 1, 2, 9, 13, 14, 21, 25, 26, 33, 37, and 38 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Chuah et al.* (US 6,408,001 B1). This rejection is respectfully traversed.

Each and every element as set forth in the present claims are not found in *Chuah*. Furthermore, the various combinations of elements proposed by the Office Action are never

arranged by *Chuah* in the same manner as proposed by the Office Action or as required by the present claims.

Specifically, the Office Action states that *Chuah* discloses all of the claim elements or limitations. However, *Chuah* discloses a label or tag switching technique that is not as disclosed or claimed by the Applicant. In the Field of the Invention, *Chuah* notes that "[t]he present invention relates...to methods for providing increased efficiency while utilizing label switching capabilities at Label Switching Routers within a Multi-Protocol Label Switching Network." (Col. 1, lines 5-9)

By contrast, the Applicant goes to some length to acknowledge such systems exist and to distinguish his invention from them. (See Specification page 11, line 13 through page 13, line 18, among others.) The conclusion can be summed up as follows:

As those of ordinary skill in the art will recognize, the techniques proposed in the present invention significantly reduce the complexity of traffic engineering as currently proposed by the IETF [(Internet Engineering Task Force) i.e., label switching]. Compared with other approaches known to those of ordinary skill in the art, the new techniques according to the present invention are independent of the underlying protocol, scalable (i.e., they require a small EFIB [(Explicit Forwarding Information Base)] size and support flow aggregation), and dynamic (i.e., they support both class-based and flow-based explicit routes.) (Specification page 39, lines 10-16)

Consequently, any citations to *Chuah* are taken out of context and are inappropriate.

Thus the rejection is without support and should be withdrawn.

The 35 U.S.C. § 103 Rejection

According to M.P.E.P. § 2143,

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.

Claims 3, 4, 10, 15, 16, 22, 27, 28, and 34 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Chuah* in view of *Belser et al.* (US 6,151,324). Claims 5, 6, 11, 17, 18, 23, 29, 30, and 35 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Chuah* in view of *Picard* (US 5,477,536). Claims 7, 8, 12, 19, 20, 24, 31, 32, and 36 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Chuah* in view of *Belser* and in further view of *Picard*. These rejections are respectfully traversed.

Generally, the Office Action states that *Chuah* discloses or suggests most of the claim elements and limitations and that one or both of *Belser* and *Picard* disclose or suggest the rest. However, the arguments made with respect to *Chuah* above apply equally here.

Further with respect to *Picard*, the arguments made by the Office Action are extended beyond the teaching of the citations. *Picard* discloses "a routing code which is specific to the node" (Col. 2, lines 4-5) and not to the route. This routing code is limited when compared to the Global Path Identifier as variously claimed. It is improper to equate input/output port addresses with node addresses as there is no teaching or motivation to substitute one with the other. A common operator (XOR) does not make any operand (IP addresses) obvious. The stated reason by *Picard* for such a routing code is that it allows for routing "either in the forward or backward direction" (Col. 1, line 45). This reason does not apply as a particular problem to be concerned with in the present invention and thus does not support the analogy. Without *Picard* the rejections lack support and should be withdrawn.

In view of the above, it is respectfully asserted that the claims are now in condition for allowance.


Request for Allowance

In view of the foregoing, reconsideration and an early allowance of this application are earnestly solicited.

If any matters remain which could be resolved in a telephone interview between the Examiner and the undersigned, the Examiner is invited to call the undersigned to expedite resolution of any such matters.

Respectfully submitted,
THELEN, REID, & PRIEST LLP

Dated: February 5, 2004



David B. Ritchie
Reg. No. 31,562

Thelen, Reid, & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
(408) 292-5800